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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,751	06/26/2001	Dale F. McIntyre	83009F-P	1010

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08/09/2005

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EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,751

Applicant(s)

MCINTYRE ET AL.

Examiner

Dohm Chankong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 7, 10-12, 20-22, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1> This action is in response to Applicant's amendment and remarks. Claims 5, 6, 19 and 23-27 have been cancelled by Applicant. Claims 4, 7, 10-12, 20-22 and 29-30 are presented for further examination.

2> This is a final rejection.

Response to Arguments

3> Applicant's arguments with respect to claims 4, 7, 10-12, 20-22 and 29-30 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4> Claims 4, 7, 10, 12, 20-22 and 29-30 are rejected under 35 U.S.C § 103(a) as being unpatentable over Capps, U.S Patent Publication No. 2002|0111813 ["Capps"], in view of Lloyd-Jones, U.S Patent Publication No. 2002|0055955 ["Lloyd-Jones"], in further view of Goldberg, U.S Patent Publication 2004|0008872.

5> As to claim 4, Capps discloses a method for automatically forwarding a digital media file by a first party to a second party over a communication network, said digital media file having at least one digital image file, comprising the steps of:

automatically analyzing a digital image media file at a first party for determining if a portion of said at least one digital image file matches an image content identifier, said image content identifier having an associated electronic address of a second party [0011, 0012, 0014 where Capps discloses analyzing an image to identify a person within the image].

While Capps does not explicitly disclose an image content identifier, such an identifier is obvious in light of his person-identifying (matching) functionality.. Furthermore, Goldberg discloses utilizing a image content identifier (facial ID) to identify people in images based on their ID [0142-0144]. It would have been obvious to one of ordinary skill in the art to have reasonably inferred that such an ID would be utilized in Capps' facial recognition system so as to properly identify the persons within an image.

Capps discloses being able to communicate with the identified second party using the associated electronic address [0066] but does not explicitly disclose automatically forwarding said digital image from said first party to said electronic address of said second party over said communication network if said image content identifier matches a portion of said image.

6> Also, it should be noted that Capps discloses the claimed invention except for automatically forwarding the image to the identified second party. It would have been

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obvious to one of ordinary skill in the art at the time the invention was made to automate Capps action button process so that communications to the second party are done automatically (instead of having the user press the button to initiate communications), since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has been accomplished the same result involves only routine skill in the art. See *In re Venner*, 120 USPQ 192.

Furthermore, Lloyd-Jones discloses automatically forwarding an image from a first party to an electronic address of a second party [0039]. It would have obvious to modify Capps' email so that it included the scanned image when it is sent to the second party. Not only is this process (the act of attaching an image to an email) well known and routine in the art, but Lloyd-Jones discloses that such functionality allows multiple images associated with a second party to be sent more easily [see Lloyd-Jones, 0005].

7> As to claim 7, Capps discloses a method for identifying images by a computer for communication of said images over a communication network to a designated remote location, comprising the steps of:

automatically analyzing a digital image [0052]; and

identifying a feature within said digital image by said computer using pre-established image content identifier having an associated electronic address at a first location [0052, 0053].

Capps discloses transmitting an email to a second remote location over a communication network to a second remote location but does not explicitly disclose

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automatically transmitting said image to a second remote location over a communication network for displaying or storing said image based on identifying said feature within said image.

8> Capps discloses the claimed invention except for automatically forwarding the image to the identified second party. It would have been obvious to one of ordinary skill in the art at the time the invention was made to automate Capps action button process so that communications to the second party are done automatically (instead of having the user press the button to initiate communications), since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has been accomplished the same result involves only routine skill in the art.

See *In re Venner*, 120 USPQ192.

Furthermore, Lloyd-Jones discloses automatically forwarding an image from a first party to an electronic address of a second party [0039]. It would have obvious to modify Capps' email so that it included the scanned image when it is sent to the second party. Not only is this process (the act of attaching an image to an email) well known and routine in the art, but Lloyd-Jones discloses that such functionality allows multiple images associated with a second party to be sent more easily [see Lloyd-Jones, 0005].

9> As to claim 10, Capps discloses a system for automatically sharing of images over a communication network, comprising:

obtaining at least one image identifier comprising an image content identifier and an

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associated electronic address [0052, 0053]; and

automatically analyzing digital images at a first location different from said associated electronic address for determining if the said image content identifier substantially matches a portion of said images [0052, 0053, 0054].

Capps discloses transmitting an email to a second remote location over a communication network to a second remote location when said images substantially match said image content identifier but does not explicitly disclose automatically forwarding said images to a second remote location over a communication network to said associated electronic address.

10> Capps discloses the claimed invention except for automatically forwarding the image to the identified second party. It would have been obvious to one of ordinary skill in the art at the time the invention was made to automate Capps action button process so that communications to the second party are done automatically (instead of having the user press the button to initiate communications), since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has been accomplished the same result involves only routine skill in the art. See *In re Venner*, 120 USPQ192.

Furthermore, Lloyd-Jones discloses automatically forwarding an image from a first party to an electronic address of a second party [0039]. It would have obvious to modify Capps' email so that it included the scanned image when it is sent to the second party. Not only is this process (the act of attaching an image to an email) well known and routine in the

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art, but Lloyd-Jones discloses that such functionality allows multiple images associated with a second party to be sent more easily [see Lloyd-Jones, 0005].

11> As to claim 12, it does not teach or further define over the limitations recited in claim 10. Therefore, claim 12 is also rejected for the same reasons as set forth in claim 10, supra.

12> As to claim 20, as it is a computer software products that perform the steps of the methods of claim 7, it does not teach or further define over the limitations recited in claim 7. Therefore, claim 20 are rejected for the same reasons as set forth in claim 7, supra.

13> As to claim 21, as it is a computer software products that perform the steps of the method of claim 4, they do not teach or further define over the limitations recited in claim 4. Therefore, claim 21 is rejected for the same reasons as set forth in claim 4, supra.

14> As to claim 22, as it is a computer software products that perform the steps of the method of claim 10, it does not teach or further define over the limitations recited in claim 10. Therefore, claim 22 is rejected for the same reasons as set forth in claim 10, supra.

15> As to claim 29, Capps discloses a method for automatically forwarding a digital media file by a first party to a second party over a communication network, said digital media file having at least one digital image file, comprising the steps of:

automatically analyzing a digital image media file for determining if a portion in said

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digital image file matches a content identifier at a first location, said image content identifier having an associated electronic address remote from said first location;

While Capps discloses sending an email to a second party's associated electronic address, he does not explicitly disclose automatically forwarding said digital image from said first location to said electronic address over said communication network if said image content identifier is present nor does he disclose automatically updating said content identifier to reflect a change in said content identifier.

16> Capps discloses the claimed invention except for automatically forwarding the image to the identified second party. It would have been obvious to one of ordinary skill in the art at the time the invention was made to automate Capps action button process so that communications to the second party are done automatically (instead of having the user press the button to initiate communications), since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has been accomplished the same result involves only routine skill in the art. See *In re Venner*, 120 USPQ192.

Furthermore, Lloyd-Jones discloses automatically forwarding an image from a first party to an electronic address of a second party [0039]. It would have obvious to modify Capps' email so that it included the scanned image when it is sent to the second party. Not only is this process (the act of attaching an image to an email) well known and routine in the art, but Lloyd-Jones discloses that such functionality allows multiple images associated with a second party to be sent more easily [see Lloyd-Jones, 0005].

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17> In a similar field of invention (facial recognition) Goldberg discloses automatically updating said content identifier to reflect a change in said content identifier [0142, 0143, 0144].

It would have been obvious to one of ordinary skill in the art to modify Capps facial recognition program with the automatic facial ID updating system disclosed by Goldberg. As Goldberg suggests, by updating (or “converging”) multiple iterations of the facial ID, the process of identifying or matching a person to his facial ID becomes more precise because the facial ID has become more accurate. Such functionality would especially be useful in Capps’ facial recognition program as it would increase speed and efficiency of the system.

18> As to claim 30, Capps discloses said content identifier is the appearance of an individual [0052] but does not disclose that said change comprises a change in the appearance of said individual.

19> Goldberg discloses updating a content identifier to reflect a change, said change comprising a change in the appearance of the individual [0142, 0143, 0144]. It would have been obvious to one of ordinary skill in the art to modify Capps facial recognition program with the automatic facial ID updating system (converging the changes of the different images) disclosed by Goldberg. As Goldberg suggests, by updating (or “converging”) multiple iterations of the facial ID, the process of identifying or matching a person to his facial ID becomes more precise because the facial ID has become more accurate. Such functionality would especially be useful in Capps’ facial recognition program as it would increase speed and efficiency of the system.

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20> Claim 11 is rejected under 35 U.S.C § 103(a) as being unpatentable over Capps, Lloyd-Jones and Goldberg, in view of Davis et al, U.S Patent Publication 2002/0001395 ["Davis"].

21> Capps does not explicitly disclose the system wherein said images are forwarded to a fulfillment provider for providing goods and/or services with respect to said at least one digital image file.

22> Davis discloses a system wherein said images are forwarded to a fulfillment provider for providing goods and/or services with respect to said at least one digital image file [0171, 0172, 0173, 0174]. It would have been obvious to one of ordinary skill in the art to incorporate Davis' fulfillment provider for providing imaging services to a user in Capps' photo system. One would have been motivated to perform such an implementation to increase the capability of Capps' photography system.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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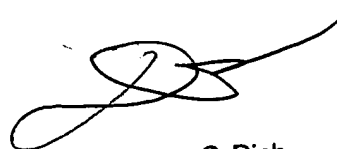
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (571)272-3942. The examiner can normally be reached on 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



Dung C. Dinh
Primary Examiner